IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 3859 of 2003
DATE OF DECISION:20.11.2006.

Sandeep Kumar ....Petitioner.

Versus

State of Punjab and others ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr.S.S.Sidhu, Advocate for the petitioner.
Mr.Ashok Aggarwal , Addl. A.G. Punjab,
for respondents No.1 and 2.
Mr. S.S.Bhinder, Advocate
for respondents No.3 and 4.

J.S. Khehar, J. (oral)

Giani Zail Singh College of Engineering and Technology, Bathinda (hereinafter referred to as the `Engineering College') advertised various posts, including the post of Lecturer (Management). The petitioner, who claimed to be eligible for appointment against the advertised post, submitted his application well before the last date of submission of application forms. Consequent upon the scrutiny conducted by the Engineer College, five candidates were short listed and invited for interview. On the culmination of the process of selection, respondent No.3 Smt. Suman Bala was found to be the third most meritorious candidate. Since the candidate next higher in merit over respondent No.4 Jyoti Kumar Chandel did not accept the offer of appointment issued to him, and likewise, since the most meritorious candidate Jagwinder Singh accepted an offer of appointment received by him from the Regional Engineering College, Jalandhar, respondent No.4 was offered appointment as Lecturer (Management) at the

Engineering College. The aforesaid offer was accepted by respondent No.4.

Through the instant writ petition, the petitioner has challenged the selection and appointment of respondent No.4 as Lecturer (Management) at the Engineering College. The solitary contention of the learned counsel for the petitioner, while contesting the marks awarded to respondent No.4 in the process of selection, is, that respondent No.4 has been awarded 10 marks out of maximum of 10 marks for the experience earned by her.

On the last date of hearing i.e. 3.8.2006, we had required respondent No.2 to be present in Court in person, along with record. In compliance with our aforestated direction, respondent No.2 has produced the selection record, as also, the application forms submitted by the different candidates short listed for appointment against the post of Lecturer (Management). In the application form submitted by respondent No.4, in so far as her experience is concerned, it is inter alia stated as under:-

"List of previous employment in order (Most recent first):

(Administration)

S.No.	Name of Employer	Post held	Period From	To	Salary drawn
1.	Principal, GZS College of Engg.& Technology, Bathinda.	P.A. to Principal	06.09.90	Till date	Rs.8650/-Basic in the pay scale of Rs.6400-10640
2.	Punjab Women & Children Welfare and Development Corp: (PUNWAC),Chandigarh	Jr.Scale Stenographer	19.09.89	30.08.90	Rs.1200-2100 + Rs.80/- as special pay
3.	Varindra Agro Chemicals Limited Barnala)	Sr.Asstt. Accounts	02.04.88	15.06.89	Rs.1800/- fixed pay

Teaching Experience:-

A) I have been taking the classes of Punjabi Subject of Engineering Students.

B) I am teaching 4th to 8th Semester students of B.E. Electrical Electronics, Textile, Computer Science and Engineering for the subjects of `Human Resource Management', Industrial Economics, Principles of Economics and Management for Engineers etc.

Honorarium for A & B has been paid to me by the college from time to time."

To authenticate the factual position of having experience against the assignments depicted in her application form, she had also appended with her application form a certificate dated 16.6.1989 issued by the Manager (P&A) of the Varinder Agro Chemicals Limited. The relevant extract of the same is being reproduced hereunder:-

"No.VACL/P&A.1184 Dated: 16.06.89

To Whom It May Concern

This is to certify that Ms. Suman Bala D/O Sh.Bhagwan Dass has worked with us as Senior Asstt. in Accounts Department, for the period from 2nd April, 1988 to 15th June 1989.

During the tenure of her service, she was sincere, honest and hard working.

We wish her success in future life.

For Varinder Agro Chemicals Ltd:
sd/- Nirmal Singh,
Manager P&A."

Likewise, the experience certificate from the Punjab Women and Children Development Welfare Corporation issued by the Administrative Officer thereof, was also attached with the application form. Since the aforesaid certificate is in Punjabi language, it is not possible to extract the same

hereunder. Suffice it to state that the same depicts that respondent No.4 had served the Corporation from 19.6.1989 to 30.8.1989 as Junior Scale Stenographer. It would be pertinent to mention that the certificate depicts that the work and conduct of respondent No.4 was satisfactory. It, however, does not depict, that petitioner discharged teaching duties during the course of the said assignment. it is not possible for us to accept/assume that respondent No.4 discharged teaching duties while she was engaged as a Senior Assistant, Accounts with M/S Varinder Agro Chemicals Limited, or while she was engaged as a Junior Scale Stenographer, with the Punjab Women and Children Development Welfare Corporation. The third certificate of experience was issued by the College of Engineering & Technology, Bathinda, dated 13.6.2001. The same was issued by the Principal of the said Engineering College. The same is also being extracted hereunder:-

> "Experience Certificate
>
> This is to certify that Ms. Suman Bala w/o Mr. Anil Kumar is working as P.A. to Principal w.e.f. 6.9.1990.
>
> She had also taken the classes of 'Human Resource Management' 'Industrial Economics', "Principles of Economics and Management for Engineers' of B.E. Electronics, Textile, Electrical & Computer Science on part time basis for the semesters; Aug-Dec.,1999, Jan-June, 2000 and Jan-June,2001.
>
> She is drawing basic pay of Rs.8650/- in the pay scale of Rs.6400-10640/-. Her next increment is due in Sept., 2001."

The only question needs to be adjudicated is, whether the

experience gained by respondent No.4 at Varinder Agro Chemicals Limited, Punjab Women & Children Development Welfare Corporation, as also, at the Engineering College can be taken into consideration as experience for purposes of the post of Lecturer (Management), for which she has been awarded 10 marks out of a maximum of 10 marks, in the process of selection.

In so far as the aforesaid issue is concerned, it is relevant to mention that the term `teacher' has been defined in the Bye Laws of the Engineering College. Bye law 3.3 is being extracted hereunder:-

> "3.3 Classification of Teacher
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> (a) Teacher means a person appointed or recognized by the Board for the purpose of imparting instructions or conducting and guiding research and includes a person declared to be a teacher by the Board.
>
> (b) The teacher shall include the following:-
>
> i. Professors
>
> ii. Assistant Professors
>
> iii. Lecturers
>
> iv. Persons conducting and guiding research.
>
> v. Any other employee of the College declared as "Teacher" by the Board."

The experience gained by respondent No.4 with the employers, referred to in her application forms, would be relevant if the some constitutes teaching experience, within the terms of Bye law 3.3.

While the two certificates issued by Varinder Agro Chemicals Limited and Punjab Women & Children Development Welfare Corporation do not depict any experience at the hands of the petitioner from April 1988 to June 1989, and from September 1989 to August 1990 respectively in the

field of teaching, reliance can possibly be placed by respondent No. 4 only on the certificate issued by the Engineering College (relevant part whereof has been extracted hereinabove). A perusal of the certificate issued by the Engineering College, discloses (even if the authenticity of the same is accepted) that respondent No.4 discharged teaching assignment from August to December 1999, then from January to June 2000, and finally, from January to June 2001. It is, therefore, obvious that the total teaching experience earned by respondent No.4 in the three assignments, referred to by her in her application form, sums up to a total of 17 months. Our doubt about the genuineness of the teaching experience of respondent No.4 is based on two reasons. Firstly, it is unthinkable for an Engineering College of the kind of the Engineering College in question to recruit a person as a P.A. to the Principal, but require him/her to discharge teaching duties in specialised fields as is apparent from the certificate issued to respondent No.4 by the Engineering College. Secondly, respondent No.4, in her application form, has claimed to have taught Punjabi language to engineering students, although the certificates produced by her do not authenticate the aforesaid fact. At best, respondent No.4 (even though, we are doubtful about the authenticity of the aforesaid certificates) can be awarded the benefit of experience of a period of 17 month. A person who was substantively holding the post of P.A. to the Principal, it is difficult to assume that he/she was discharging full time duties of the post of Lecturer. At best she may have been taking a few classes as claimed For the aforesaid purpose, according to the parameters depicted in the selection process, such a person could have been awarded at best 1.5 or 2 marks, whereas

respondent No.4 has been awarded 10 marks out of a maximum of 10 marks, for experience . If the marks awarded to respondent No.4 are reduced to 2, as they ought to be (because she could not have been awarded more than 2 marks) the overall merit of respondent No.4 will be far below that of the petitioner. Suffice it to state, that the petitioner Sandeep Kumar was awarded 47.10 marks by the Selection Committee, whereas, respondent No.4 was awarded 53.37 marks. If the marks awarded to respondent No.4 are reduced by 8.4 marks, in terms of our aforestated conclusion, she would obviously be entitled to only 45.37 marks.

For the reasons recorded hereinabove, we are satisfied that the selection and appointment of respondent No. 4 deserves to be set aside, because she has been awarded 10 marks out of a maximum of 10 marks for experience, either by inadvertence or as a matter of favour. The selection and appointment of respondent No. 4 is, accordingly, set aside. The Engineering College shall now proceed to issue a fresh offer of appointment in favour of the most meritorious candidate out of the remaining candidates (after excluding Jagwinder Singh and Jyoti Kumar Chandel – referred to above), in terms of the process of selection conducted by it on 23.8.2001.

Needful be done within three months from today.

The instant writ petition is disposed of in the aforesaid terms.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

November 20, 2006.
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